IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Crl.Rev.Pet.No. 957 of 1999

CRL.A.54/1998 OF ADDL.SESSIONS COURT, NORTH PARAVUR,
CC.206/1995 OF JUDL.MAGISTRATE OF FIRST CLASS, NORTH PARAVUR

.

.....

REVN. PETITIONER/APPELLANT/ACCUSED:

PURUSHAN, S/O. KANDANKORAN,
VAYALIPARAMBIL, THEKKUMBHAGOM KARA,
ELOOR.

BY ADV. SRI.T.A.SHAJI.

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA, (S.I. OF POLICE, ELOOR),
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. C.K. SURESH.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

Crl. R.P. No.957 of 1999

Dated 19th June, 2007

ORDER

The revision petitioner stands convicted for the offence under section 379 IPC and sentenced to undergo rigorous imprisonment for one year. The prosecution case is that 4-12-94, at 4.25. p.m the accused committed theft of 5 door pieces and 3 window frames from building No.XIII/218 situated at Convent area belonging to the F.A.C.T. Company, Eloor as a result of which the company sustained loss to the tune of Rs. 3000/-.

2. The evidence adduced in the matter consisted of the testimony of PWs 1 to 9, Exts.P1 to P6 and M.Os 1 to 4. PWs 1 and 2 are the C.I.S.F Constables attached to the security wing of the F.A.C.T who detected the offence. PWs 1 and 2 have testified in a uniform manner that while they were on patrol duty, sounds were heard from the uninhabited building and when they reached there, they saw two persons demolishing the walls and removing

the doors and windows. On seeing the Constables , one of the accused took to heels and escaped. The accused/revision petitioner was apprehended and handed over to the Controlling officer (PW-7). PW-6 who is the Assistant Estate Officer of the F.A.C.T has proved Ext.P4 valuation certificate wherein it is mentioned that the value of window frames and door shutters comes to Rs.3000/- and that the building from which the above articles were attempted to be removed is having House No.XIII/218 which was acquired by the F.A.C.T as per the proceedings as LAC 173/93 from Special Tahsildar Land Acquisition (General). The evidence of PW-6 stands unimpeached. I find no reason to interfere in the findings of the courts below. The conviction is confirmed.

3. Counsel for the revision petitioner has sought for leniency pointing out that more than 12 years have elapsed since the incident has taken place and since the commencement of the criminal proceedings. The accused has been facing criminal proceedings so far. It is

submitted that the accused is not a habitual offender and is a nearby resident.

4. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs.5000/- and in default to undergo simple imprisonment for 3 months. The revision petitioner shall appear before the JFCM, North Paravur on 30-7-2007 to receive the sentence.

The Crl.R P is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P. 957 OF 1999

ORDER

19-6-2007.